THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 17371 of 2007

14-08-2007

Between:

Loya Haribabu

Petitioner

And

The District Collector,
Krishna District at Machilipatnam and another.

Respondents.

THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 17371 of 2007

Oral Order:

The petitioner's lands are sought to be acquired by the issuance of a notification dated 20-06-2007 under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'). Urgency clause was invoked under Section 17 (4) of the Act and the enquiry under Section 5-A of the Act was dispensed with mechanically and without due application of mind, is the complaint.

The impugned notification states that the acquisition

is for the purpose of Rajiv Swagruha Scheme by A.P.H.B in Machilipatnam town. This requirement is not of such an emergent nature as would justify invocation of the urgency clause and dispensing with the enquiry under Section 5-A of the Act. The enquiry under Section 5-A of the Act is a salutary statutory provision intended for affording a reasonable opportunity to the owners of lands to object to the acquisition on any relevant grounds as they wish to submit.

In the aforesaid circumstances, the decision in the impugned notification to invoke the urgency clause and dispensing with the enquiry under Section 5-A of the Act is declared irrational and unsustainable. The respondents are directed to issue notice to the petitioner for submission of objections if any to the proposal to acquire the lands. On the petitioner submitting his objections within the time stipulated in the notice, the same shall be considered and an appropriate decision taken duly communicating the decision to the petitioner simultaneously with the recommendations made after the enquiry under Section 5-A of the Act by the acquiring authority. The petitioner shall not be dispossessed pending communication of the decision to the petitioner consequent on the enquiry under Section 5-A of the Act.

The writ petition is disposed of as above at the stage of admission, after hearing the learned counsel for the petitioner and the learned Government Pleader for Land

Acquisition. There shall however be no order as to costs.

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GODA RAGHURAM, J

Dated: 14-08-2007
Pvks

Nb:- Furnish c.c. in two days.
B/o pvks